

MATTHEW MURPHY AKA MATT MURPHY
TARA SNYDER MURPHY AKA TARA S. MURPHY,

V.

Respondent

) NO. 5:14-bk-02457-RNO

FILED
HARRISBURG, PA
2014 JUL 29 AM 11:34
CLERK
U.S. BANKRUPTCY COURT

2) Admitted and Denied. Respondent admits that Respondent attempted to collect on a pre-petition debt prior to the bankruptcy filing. Respondent denies that

Respondent is a collection agency. Respondent is a law firm. Respondent is a “debt collector” as defined by the FDCPA (Fair Debt Collection Practices Act) 16 USC §1692a(6).

3) Denied as stated. Respondent admits that a violation of the FDCPA would be a pre-petition claim. However, Movant has not filed a claim against Respondent. If Movant believes Respondent violated the FDCPA, discovery by deposition is not required.

Discovery by deposition is vexatious and unduly burdensome on Respondent. A copy of initial demands mailed by Respondent to Plaintiff are collectively attached hereto as Exhibit “1”. Statutory damages are limited by the act to \$1,000.00 per violation plus actual damages, reasonable attorney’s fees and costs. 15 U.S.C. §1692k(a)(2)(A). Movant does not need a deposition of Plaintiff to determine the amount of actual damages he sustained or the costs to file the complaint, if there was a violation. The amount of any attorney’s fees awarded, if he prevails would go to Movant’s attorney, and would not properly be included as property on Movant’s schedule B. Furthermore, the amount of the attorney’s fees awarded is mere speculation and conjecture. Discovery of Respondent by deposition would seek information otherwise protected by attorney-client privilege, the Federal Rules of Civil Procedure or attorney work product. See Fed.R.Civ. P. 26(b)(3); *Hickman v. Taylor*, 329 U.S. 495, 510-511, 91 L.Ed. 451 67 S. Ct. 385 (1947) *Westinghouse Elec. Corp. v. Republic of the Philippines*, 951 F.2d 1414 (3d. Cir. 1991);

4) Admitted. By way of further response, Respondent admits that Respondent has a potential claim against Respondent for \$2,000.00 (i.e. \$1000.00 for each demand sent to Movant).

5) Denied. Defendant does not need a deposition of Respondent to determine the value of any claim he may or may not have against Respondent. Statutory damages are

provided for by the Act. See 15 U.S.C. §1692k(a)(2)(A). Respondent is not aware of any actual damages sustained by Movant. If Movant sustained any actual damages, a deposition of Respondent will not elicit this information as Respondent is unaware of the extent or amount of any damages he may have sustained.

6) Admitted. By way of further response, Movant's pre-complaint discovery of Respondent is contrary to the Federal Rules of Civil Procedure and unduly burdensome on Respondent.

OBJECTIONS

1) Respondent's offices are located in excess of 100 miles from the Courthouse.

2) Movant's discovery seeks to compel information in violation of the attorney client privilege.

3) Movant's discovery request seeks to compel information protected as attorney work product.

4) Movant's discovery request seeks to obtain Respondent's trade secrets.

5) Movant's discovery is overly broad and unduly burdensome on Respondent as it will take hundreds of hours to assemble the information requested.

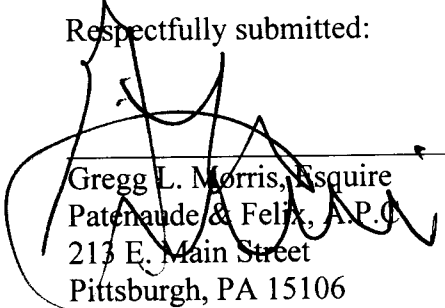
6) Movant's discovery request is nothing more than a "fishing expedition" served for the purpose of coercing payment from Respondent.

7) Movant's discovery seeks to obtain the mental impressions, conclusions and opinions of counsel or other representatives of counsel in anticipation of litigation of Movant's FDCPA or Fair Credit Extension Uniformity Act (FCEUA 73 P.S. §2270.1) claim.

8) The information requested by Movant is available to Movant by other means less intrusive upon Respondent.

WHEREFORE, Movant respectfully request this Court to enter the attached Order denying an examination of Movant along with any additional relief the Court deems appropriate.

Respectfully submitted:



Gregg L. Morris, Esquire
Pachnaude & Felix, A.P.C.
213 E. Main Street
Pittsburgh, PA 15106
(412) 429-7675
(412) 429-7679
Email gmorris@pandf.us
Bar Number: PA 69006

LAW OFFICES OF
PATENAUE & FELIX, A.P.C.
A PROFESSIONAL LAW CORPORATION

4545 MURPHY CANYON ROAD, 3RD FLOOR, SAN DIEGO, CALIFORNIA 92123
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WASHINGTON

2200 6th AVENUE, STE. 790
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FAX (206) 441-5475

November 26, 2013

625092/688050

MATTHEW MURPHY
200 2ND ST
BLAKELY PA 18447-1214

RE: Our Client: GE CAPITAL RETAIL BANK (7502-3)
Issued as: Jcp Credit Card
Account Number: XXXXXXXXXXXXX8757
Our File Number: 13-36592
Balance Due: \$1,178.23

Dear Matthew Murphy:

Please be advised that the above-referenced debt has been assigned to this firm to initiate collection efforts regarding your delinquent outstanding balance to our client. If you wish to eliminate further collection action, please contact us at (866) 772-7675.

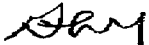
Unless you notify this office within THIRTY (30) days of receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will assume this debt is valid.

If you notify this office in writing within THIRTY (30) days of receiving this notice that this debt, or any portion thereof, is disputed, this office will obtain verification of the debt, or a copy of a judgment against you, and mail you a copy of such verification or judgment. Further, if you make a written request upon this office within THIRTY (30) days of receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Very truly yours,

LAW OFFICE OF PATENAUE & FELIX



GREGG L. MORRIS, ESQ.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR



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FAX (206) 441-5475

December 05, 2013

626084/689139

MATTHEW MURPHY
200 2ND ST
BLAKELY PA 18447-1214

RE: Our Client: GE CAPITAL RETAIL BANK (7501-7)
Issued as: Pep Boys - English
Account Number: XXXXXXXXXXXXX0982
Our File Number: 13-37584
Balance Due: \$2,900.80

Dear Matthew Murphy:

Please be advised that the above-referenced debt has been assigned to this firm to initiate collection efforts regarding your delinquent outstanding balance to our client. If you wish to eliminate further collection action, please contact us at (866) 772-7675.

Unless you notify this office within THIRTY (30) days of receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will assume this debt is valid.

If you notify this office in writing within THIRTY (30) days of receiving this notice that this debt, or any portion thereof, is disputed, this office will obtain verification of the debt, or a copy of a judgment against you, and mail you a copy of such verification or judgment. Further, if you make a written request upon this office within THIRTY (30) days of receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

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LAW OFFICE OF PATENAUE & FELIX



GREGG L. MORRIS, ESQ.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR

**IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:

MATTHEW MURPHY aka MATT MURPHY
and TARA SNYDER aka TARA S. MURPHY,

Debtors.

MATTHEW MURPHY,

Movant,

Vs.

LAW OFFICES OF PATENAUDE & FELIX,
A.P.C.,

Respondent.

CHAPTER 13

CASE NO. 5:14-bk-02457-RNO

CERTIFICATE OF SERVICE

I, Gregg L. Morris, Esquire, hereby certify that a true and correct copy of **Plaintiff's Answer to Debtor's Motion for Rule 2004 Examination**, was served this date by U.S. First Class Mail, postage prepaid upon the following:

Carlo Sabati, Esquire
SABATINI LAW FIRM, LLC
216 N. Blakely Street
Dunmore, PA 18512
Attorney for Movant

Date: July 28, 2014



Gregg L. Morris, Esquire

MATTHEW MURPHY AKA MATT MURPHY
TARA SNYDER MURPHY AKA TARA S. MURPHY,

V.

Respondent

) Chapter 13
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AND NOW, this ____ day of _____, 2014 upon consideration of the forgoing Answer, it is Ordered that said Movant's Motions is **DENIED**. Examination of a representative of Patenaude & Felix APC shall be prohibited. Movant has stipulated that the potential claim is valued at \$2,000.00 plus costs. The amount of reasonable attorney's fees would not be itemized on Respondent's schedule B.

_____J.